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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,101	05/23/2001	Weidong Li	48470	2452

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EXAMINER

VANDERPUYE, KENNETH N

ART UNIT PAPER NUMBER

2661

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,101

Applicant(s)

LI ET AL.

Examiner

Kenneth N Vanderpuye

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-19 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 19-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claims 6, 23, 29 objected to because of the following informalities:

In claim 6 (line 8), claim 23(line 9), claim 29(line 9) the word —to—should be inserted after “according” .Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C.

112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-3, 7-8, 20-22, 24-25, 27-28, 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what is meant by “overflow rate for a collected characteristic” , “overflow rate for each of the connections” or “overflow rate for the means for storing data”. The word “overflow rate is not clearly defined in the specification; hence the above claims are vague and indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 9, 23-24, 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Ma et al.(5,953,338)

With regards to claim 1, 5, 26, Sriram teaches an apparatus comprising:

Means for establishing a plurality of collection pools for a range of collection rates(Fig. 3, 6, the ATM edge switch sets up a virtual path group, with each virtual path supporting plural virtual channels. Each virtual path supports a different data rate), each of the plurality of collection pools having a different collection rate(Fig. 6, VBR, CBR represent different collection rates); means for assigning a connection to a particular one of the plurality of connection pool(a client is assigned a VP/VC connection); and means for collecting data for the connection(ATM edge switch collects the voice or data for the virtual connection).

Claims 2, 27 are rejected because in Ma the assignment of a connection to a particular VP group is based on the data rate.

Claims 3, 28 are rejected because in Ma the bandwidth assigned each VP must be able to support the traffic data rate requirements.

With regards to claims 6, 9, 23, 29 are rejected because Ma teaches an apparatus comprising:

Means for determining a data acquisition rate for each connection of a plurality of connections(bandwidth manager determines to data rate for each connection and this is based on the QOS requirements), means for configuring a plurality of predefined collection groups(Fig. 6 CBR, VBR), each predefined collection group having a different predetermined collection rate(different traffic types have different data rates); means for assigning said each connection to one of the plurality of predefined collection groups based at least in part on the data acquisition rate for said each connection(Fig. 1A, call admission, bandwidth manager assign different traffic types to different VP groups, the different traffic types represent different data rates); and means for collecting data according to its assigned predefined collection group at approximately said

predetermined collection rate(ATM edge switch collects the voice or data for the virtual connection at the different rates).

Claims 7, 24, 30 are rejected because in Ma the assignment of a connection to a particular VP group is based on the data rate.

Claims 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sriram(5,463,620)

With regards to claim 20, Sriram teaches an apparatus comprising: means for establishing a plurality of collection pools for a range of collection rates(queues are classified into groups as shown in Fig. 5), each of the plurality of collection pools have a different collection rate(different queues accommodate the data rates for the different types of incoming traffic), means for collecting data from a plurality of means for storing data(Fig. 5 dynamic slice server collects data from the queues), means for assigning a particular means for storing data to a particular one of the collection pools based at least in part on an overflow rate for the means for storing data(the queues are classified according the characteristics of the different data types i.e. data rate or bandwidth and the queues must be able to receive packets at these rates); and means for collecting data from the plurality of means for storing data at approximately said collection rates

of the plurality of collection pools.(Fig. 5 shows the different rates at which the time slice server collects data from the queues).

Claim 21 is rejected because Sriram teaches the limitation, wherein the collection rate of each of the plurality of collection pools equals the overflow rate for each of the particular means for storing data assigned to the collection pools.(the queues are classified according the characteristics of the different data types i.e. data rate or bandwidth and the queues must be able to receive packets at these rates)

Allowable Subject Matter

Claims 10-19 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose telephone number is 571-272-3078. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KNV
2/18/05



KENNETH VANDERPUYE
PRIMARY EXAMINER